

**CITY OF NEWPORT BEACH
BUILDING DEPARTMENT
ORDINANCE NO. 2011-5**

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ORDINANCE NO. 2011-5

AN ORDINANCE OF THE CITY OF NEWPORT BEACH AMENDING TITLE 15 OF THE NEWPORT BEACH MUNICIPAL CODE TO ADOPT AMENDMENTS TO CHAPTER 1 DIVISION II OF THE 2010 CALIFORNIA BUILDING CODE DESIGNATED AS THE NEWPORT BEACH ADMINISTRATIVE CODE; TO ADOPT THE 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE; TO ADOPT THE 2009 UNIFORM SWIMMING POOL, SPA AND HOT TUB CODE; TO AMEND THE 2010 EDITION OF THE CALIFORNIA BUILDING CODE; TO AMEND THE 2010 EDITION OF THE CALIFORNIA RESIDENTIAL CODE; TO AMEND THE 2010 CALIFORNIA GREEN BUILDING STANDARDS CODE; TO ADD A NEW MUNICIPAL CODE CHAPTER 15.12 POST-DISASTER SAFETY ASSESSMENT PLACKARDS AND STANDARDS FOR REPAIR OF DAMAGED STRUCTURES; AND TO AMEND AND RENAME THE MUNICIPAL CODE CHAPTER 15.50 FLOODPLAIN MANAGEMENT.

The City Council of the City of Newport Beach DOES HEREBY ORDAIN as follows:

SECTION 1: Chapter 15.02 of the Newport Beach Municipal Code is amended to read:

Chapter 15.02 ADMINISTRATIVE CODE

Sections:

15.02.060	Amendment to Section 101.4.4
15.02.080	Amendment to Section 102.6
15.02.100	Amendment to Section 105.2
15.02.110	Amendment to Section 105.3.2
15.02.120	Amendment to Section 105.5
15.02.130	Amendment to Section 109.4
15.02.140	Added Section 110.3.9.1

Section 15.02.060 Amendment to Section 101.4.4

Section 101.4.4 is amended to read as follows:

Section 101.4.4 Property maintenance. The provisions of the International Property Maintenance Code shall apply to existing residential structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

Section 15.02.080 Amendment to Section 102.6

Section 102.6 is amended to read as follows:

Section 102.6 Existing structures. The legal occupancy of any structure existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the California Building Code, the California Residential Code, the Property Maintenance Code, or the California Fire Code, or as is deemed necessary by the *Building Official* for the general safety and welfare of the occupants and the public.

Section 15.02.100 Amendment to Section 105.2

Section 105.2 is amended to read as follows:

Section 105.2 Work exempt from permit.

Building: 2. Masonry or concrete fences not over 3.5 feet (1,066.8 mm) in height above lowest adjacent grade, and all other fences not over 6 feet (1,828.8 mm) in height above lowest adjacent grade.

Section 15.02.110 Amendment to Section 105.3.2

Section 105.3.2 is amended to read as follows:

Section 105.3.2 Time limitation of application. An application for a *permit* for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a *permit* has been issued; except that the *building official* is authorized to grant up to two extension of time for a period not exceeding 180 days each. The extension shall be requested in writing

and justifiable cause demonstrated. *[OSHPD 1, 2, & 4] Time limitation shall be in accordance with Title 24, Part 1, Chapter 7, Section 7-129.*

Section 15.02.120 Amendment to Section 105.5

Section 105.5 is amended to read as follows:

Section 105.5 Expiration. Every permit issued shall become invalid unless the work on the site authorized by such *permit* is commenced within 180 days after its issuance, or if the work authorized on the site by such *permit* is suspended or abandoned for a period of 180 days after the date of the last recorded inspection. Before such work can be recommenced, a new *permit* shall be first obtained to do so, and the permittee shall pay a new permit fee except for permits for suspended or abandoned work where inspections were previously recorded the fee shall be one half the amount required for a new *permit* for such work, provided no changes have been made or will be made in the original approved plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. *Permits* shall not be renewed more than once. The building official is authorized to grant, in writing, one or more extensions of time, for a period not more than 180 days each provided work has not commenced. The extension shall be requested in writing and justifiable cause demonstrated.

Section 15.02.130 Amendment to Section 109.4

Section 109.4 is amended to read as follows:

Section 109.4 Work commencing before permit issuance. Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an investigation fee in addition to the required permit fees. The investigation fee shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required in the City Council fee resolution. The payment of such investigation fee shall not exempt an applicant from compliance with all other provisions of either this code or the technical codes nor from the penalty prescribed by law.

Section 15.02.140 Added Section 110.3.9.1

Section 110.3.9.1 is added to read as follows:

Section 110.3.9.1 Approval of Special Inspector. The special inspector shall be a qualified person approved by the Building Official of the City of Newport Beach or his/her designated representative. The special inspector shall furnish continuous inspection on the construction and work requiring his/her employment as prescribed in the applicable code. The special inspector shall report to the Building Official in writing, noting all code violations and other information as required on forms, prescribed or approved by the City of Newport Beach.

Each person applying for listing/registration as a special inspector for the City of Newport Beach shall possess a valid certification from a certifying agency approved by the Building Official, as a special inspector for each classification for which they apply. The Building Official may administer testing procedures, which he/she may find appropriate.

Each person applying for registration, as a special inspector for the City of Newport Beach, shall pay a registration fee as set forth in the City Council Fee Resolution, payable with the application.

A registration card shall be issued to each such special inspector who qualifies. A renewal fee as set forth in the City Council Fee Resolution for each classification shall be charged on July 1st of each year thereafter at which time the special inspector may be subject to re-examination.

The Building Official may, in writing, suspend or revoke any special inspector's certificate of registration for due cause. This notice shall set forth the time and place evidence would be submitted to show cause why the certificates of registration should not be revoked. Failure to appear at such hearing by the special inspector may result in immediate revocation of said certificates. Special inspector's qualification registrations

are to be given only for special inspections required in Chapter 17 of the California Building Code or for work specifically authorized by the Building Official.

SECTION 2. Chapter 15.03 of the Newport Beach Municipal Code is amended to read as follows:

Chapter 15.03
INTERNATIONAL PROPERTY MAINTENANCE CODE

Sections:

- 15.03.010 Adoption of the International Property Maintenance Code
- 15.03.020 Deletion of Chapter 1, except Sections 101 and 102
- 15.03.030 Amendment to Section 101.1
- 15.03.040 Amendment to Section 101.2
- 15.03.050 Amendment to Section 102.3
- 15.03.060 Amendment to Section 303.2

Section 15.03.010 Adoption of the International Property Maintenance Code.

The City Council adopts and incorporates by reference, as though set forth in full in this section, the 2009 International Property Maintenance Code, as published by the International Code Council.

The various parts of this Code, along with the amendments and deletions adopted in this section, shall constitute and be known as the Newport Beach Property Maintenance Code. A copy of the 2009 International Property Maintenance Code shall be kept on file in the office of the City Clerk.

Section 15.03.020 Deletion of Chapter 1, except Sections 101, 102, and 108.1 through 108.1.5.

Section 15.03.020 Chapter 1 of the Property Maintenance Code is deleted, except Sections 101, 102, and 108.1 through 108.1.5.

15.03.030 Amendment to Section 101.1

Section 101.1 is amended to read as follows:

Section 101.1 Title. These regulations shall be known as the Newport Beach Property Maintenance Code, herein referred to as “this code.”

15.03.040 Amendment to Section 101.2

Section 101.2 is amended to read as follows:

Section 101.2 Scope. The provisions of this code shall apply to all existing residential structures and all existing premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

Section 15.03.050 Amendment to Section 102.3

Section 102.3 is amended as follows:

Section 102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the applicable adopted codes. Nothing in this code shall be construed to cancel, modify or set aside any provision of the Newport Beach Zoning Code.

Section 15.03.060 Amendment to Section 303.2

Section 303.2 is amended as follows:

Section 303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 18 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 60 inches (1524 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

SECTION 3: Chapter 15.04 of the Newport Beach Municipal Code is amended to read as follows:

Chapter 15.04
BUILDING CODE

Sections:

15.04.020	Amendment to Section 403
15.04.030	Amendment to Section 403.1
15.04.040	Amendment to Section 403.1.1
15.04.050	Amendment to Section 403.4.7.2
15.04.060	Amendment to Section 403.4.8.1
15.04.070	Amendment to Section 701A.1
15.04.080	Amendment to Section 701A.3
15.04.090	Amendment to Section 701A.3.1
15.04.100	Amendment to Section 702A
15.04.110	Amendment to Section 708A
15.04.120	Amendment to Section 710A
15.04.130	Amendment to Section 903.2
15.04.140	Amendment to Section 903.2.8
15.04.150	Amendment to Section 907.2.13
15.04.160	Amendment to Section 907.5.2.2
15.04.170	Amendment to Section 907.6.3.2
15.04.180	Amendment to Section 910.3.2.2
15.04.200	Amendment to Table 1505.1
15.04.220	Amendment to Section 1505.1.3
15.04.230	Amendment to Section 3109.4.4.2
15.04.250	Addition of Section 3401.3.1

Section 15.04.020 Amendment to Section 403

Section 403 is amended to read as follows:

~~SECTION 403-HIGH-RISE BUILDINGS HAVING OCCUPIED FLOORS LOCATED MORE THAN 55 FEET ABOVE THE LOWEST LEVEL OF FIRE DEPARTMENT VEHICLE ACCESS AND GROUP I-2 OCCUPANCIES HAVING OCCUPIED~~

FLOORS LOCATED MORE THAN 75 FEET ABOVE THE LOWEST LEVEL OF FIRE DEPARTMENT VEHICLE ACCESS.

Section 15.04.030 Amendment to Section 403.1

Section 403.1 is amended to read as follows:

Section 403.1 Applicability. *New high-rise buildings having occupied floors located more than 55 feet above the lowest level of fire department vehicle access and new Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level of fire department vehicle access shall comply with Sections 403.2 through 403.6.*

Exception: The provisions of Sections 403.2 through 403.6 shall not apply to the following buildings and structures:

1. Airport traffic control towers in accordance with Section 412.3
2. Open parking garages in accordance with Section 406.3
3. Buildings with a Group A-5 occupancy in accordance with Section 303.1.
4. Special industrial occupancies in accordance with Section 503.1.1.
5. Buildings such as power plants, lookout towers, steeples, grain houses and similar structures with non-continuous human occupancy, when so determined by the enforcing agency.

Section 15.04.040 Amendment to Section 403.1.1

Section 403.1.1 High-rise Building Item 2 is amended to read as follows:

2. *“High-rise structure” means every building of any type of construction or occupancy having floor used for human occupancy located more than 55 feet above the lowest floor level having building access (as defined in this section), except buildings used as hospitals as defined in Health and Safety Code Section 1250.*

Section 15.04.050 Amendment to Section 403.4.7.2

Section 403.4.7.2 is amended to read as follows:

Section 403.4.7.2 Standby power loads. The following are classified as standby power loads:

1. Power and lighting for the fire command center required by Section 403.4.5; and
2. Standby power shall be provided for elevators in accordance with Sections 1007.4, 3003, 3007 and 3008.

Section 15.04.060 Amendment to Section 403.4.8.1

Section 403.4.8.1 is amended to read as follows:

Section 403.4.8.1 Emergency power loads. The following are classified as emergency power loads:

5. Fire alarm systems;
6. Electrically powered fire pumps; and
7. Ventilation and automatic fire detection equipment for smokeproof enclosures.

Section 15.04.070 Amendment to Section 701A.1

Section 701A.1 is amended to read as follows :

Section 701A.1 SECTION 701A SCOPE, PURPOSE AND APPLICATION.

Section 701A.1 Scope. *This chapter applies to building materials, systems and/or assemblies used in the exterior design and construction of buildings including one-and two-family dwellings located within a Wildland-Urban Interface Fire Area as defined in Section 702A.*

Section 15.04.080 Amendment to Section 701A.3

Section 701A.3 is amended to read as follows :

Section 701A.3 Application. *New buildings, alterations and additions located in any Fire Hazard Severity Zone or any Wildland-Urban Interface Fire Area designated by the enforcing agency constructed after the application date shall comply with the provisions of this chapter.*

Exceptions:

1. *Buildings of an accessory character classified as a Group U occupancy and not exceeding 120 square feet in floor area, when located at least 30 feet from an applicable building.*

2. *Buildings of an accessory character classified as Group U occupancy of any size located at least 50 feet from an applicable building.*
3. *Buildings classified as a Group U Agricultural Building, as defined in Section 202 of this code (see also Appendix C – Group U Agricultural Buildings), when located at least 50 feet from an applicable building.*

Section 15.04.090 Amendment to Section 701A.3.1

Section 701A.3.1 is amended by deleting Exception #2 in its entirety:

Section 701A.3.1 Application date and where required.

Section 15.04.100 Amendment to Section 702A

Section 702A is amended with one addition to read as follows:

SECTION 702A DEFINITIONS

UNENCLOSED COVERED STRUCTURE. Includes covered structures with a solid or open roof and no more than one enclosed side.

Section 15.04.110 Amendment to Section 708A

Section 708A is amended to read as follows:

SECTION 708A EXTERIOR WINDOWS, DOORS AND SKYLIGHTS

Section 708A.1 General.

Section 708A.2 Exterior glazing. The following exterior glazing materials and/or assemblies shall comply with this section:

1. *Exterior windows*
2. *Exterior glazed doors*
3. *Glazed openings within exterior doors*
4. *Glazed openings within exterior garage doors*
5. *Exterior structural glass veneer*
6. *Skylights*

Section 708A.2.1 Exterior windows, exterior glazed door assembly and skylight assembly requirements. *Exterior windows, exterior glazed door assemblies, and skylight assemblies shall comply with one of the following requirements:*

Section 15.04.120 Amendment to Section 710A

Section 710A is amended to read as follows:

SECTION 710A ACCESSORY STRUCTURES

Section 710A.1 General. *Accessory and miscellaneous structures, other than buildings covered by Section 701A.3 shall be constructed to conform to the ignition resistance requirements of this section.*

Section 710A.2 Applicability. *The provisions of this section shall apply to trellises, arbors, patio covers, carports, gazebos and similar unenclosed covered structures of an accessory or miscellaneous character.*

Exceptions:

1. *Decks shall comply with the requirements of Section 709A.*
2. *Awnings and canopies shall comply with the requirements of Section 3105.*

710A.3 Where required. *Accessory structures shall comply with the requirements of this section.*

710A.3.1 *Attached accessory structures shall comply with the requirements of this section.*

710A.3.2 *Accessory structures within 50 feet of an applicable building shall comply with the requirements of this section.*

710A.4 Requirements. *Accessory structures shall be constructed of noncombustible, ignition-resistant materials, or heavy timber.*

Section 15.04.130 Amendment to Section 903.2

Section 903.2 is amended to read as follows:

Section 903.2 Where required. *Approved automatic sprinkler systems in new buildings and structures shall be provided in the following locations:*

“Building Area” as used in this section shall mean gross building area enclosed within exterior walls.

1. **New buildings:** *Notwithstanding any applicable provisions of Sections 903.2.1 through 903.2.12, an automatic fire-extinguishing system shall be installed in all occupancies when the total building area exceeds 5,000 square feet (465 m²).*

Exception: Group R occupancies. Group R occupancies shall comply with Section 903.2.8.

2. **Existing buildings:** Notwithstanding any applicable provisions of this code, an automatic sprinkler system shall be provided in an existing building when the total area of the addition and reconstruction is 50% or more of the existing building area and the resulting building area exceeds 5,000 square feet (465 m²).

Exception: Group R occupancies. Group R occupancies shall comply with Section 903.2.8.

Section 15.04.140 Amendment to Section 903.2.8

Section 903.2.8 is amended to read as follows:

Section 903.2.8 Group R. An *automatic sprinkler system* installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R *fire area* as follows:

1. **New buildings:** An automatic sprinkler system shall be installed throughout all new buildings.
2. **Existing buildings:** An automatic sprinkler system shall be installed throughout when one of the following conditions exists:
 - a. When the total area of addition and reconstruction exceeds 2,000 sq.ft. and exceeds 50% of the area of the existing structure.
 - b. An addition when the existing building is already provided with automatic fire sprinkler system.

The Building Official may approve alternative methods and materials when an equivalent or greater level of fire protection is achieved.

Section 15.04.150 Amendment to Section 907.2.13

Section 907.2.13 is amended to read as follows:

Section 907.2.13 High-rise buildings having occupied floors located more than 55 feet above the lowest level of fire department vehicle access and Group I-2 occupancies having floors located more than 75 feet above the lowest level fire department vehicle access. High-rise buildings having occupied floors located more

than 55 feet above the lowest level of fire department vehicle access and Group I-2 occupancies having floors located more than 75 feet above the lowest level fire department vehicle access shall be provided with an automatic smoke detection system in accordance with Section 907.2.13.1, a fire department communication system in accordance with Section 907.2.13.2 and an emergency voice/alarm communication system in accordance with Section 907.5.2.2.

Exception: Airport traffic control towers in accordance with Sections 907.2.22 and 412.

Section 15.04.160 Amendment to Section 907.5.2.2

Section 907.5.2.2 is amended to add items 5 and 6 and to read as follows:

Section 907.5.2.2 Emergency voice/alarm communication systems. Emergency voice/alarm communication systems required by this code shall be designed and installed in accordance with NFPA 72. The operation of any automatic fire detector, sprinkler waterflow device or manual fire alarm box shall automatically sound an alert tone followed by voice instructions giving *approved* information and directions for a general or staged evacuation in accordance with the building's fire safety and evacuation plans required by Section 404. In high-rise buildings having occupied floors located more than 55 feet above the lowest level of fire department vehicle access, and Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level fire department vehicle access, the system shall operate on a minimum of the alarming floor, the floor above and the floor below. Speakers shall be provided throughout the building by paging zones. At a minimum, paging zones shall be provided as follows:

5. Dwelling units in apartment houses.
6. Hotel guest rooms or suites.

Exception: In Group I-2 *and R-2.1* occupancies, the alarm shall sound in a constantly attended area and a general occupant notification shall be broadcast over the overhead page.

Section 15.04.170 Amendment to Section 907.6.3.2

Section 907.6.3.2 is amended to read as follows:

Section 907.6.3.2 High-rise buildings. In *high-rise buildings having occupied floors located more than 55 feet above the lowest level of fire department vehicle access* and Group I-2 occupancies having occupied floors located more than 75 feet above the lowest level fire department vehicle access, a separate zone by floor shall be provided for all of the following types of alarm-initiating devices where provided:

Section 15.04.180 Amendment to Section 910.3.2.2

Section 910.3.2.2 is amended to read as follows:

Section 910.3.2.2 Sprinklered buildings. Where installed in buildings provided with an *approved automatic sprinkler system*, smoke and heat vents shall be designed to operate automatically by actuation of a heat-responsive device rated at least 100° F above the operating temperature of the sprinkler, unless otherwise approved.

Section 15.04.200 Amendment to Table 1505.1

Table 1505.1 is amended to read as follows:

TABLE 1505. MINIMUM ROOF COVERING CLASSIFICATION FOR TYPES OF CONSTRUCTION

IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A	A	A	A	A	A	A	A	A

Section 15.04.220 Amendment to Section 1505.1.3

Section 1505.1.3 is amended to read as follows:

Section 1505.1.3 Roof coverings within all other areas. New construction shall have Class A roof covering.

Exception: Class B wood roof covering may be used when:

1. It is a part of Class A roof assembly, and
2. Eaves are boxed 1-Hr assembly, and
3. Fire sprinkler system is provided throughout including attic space.

The entire roof covering of every existing structure where more than 50 percent of the total roof area is replaced within any one-year period, and the entire roof covering of every existing structure when roof covering applied in the addition, alteration, repair or

replacement of the roof exceeds 50 percent of the existing roof area; shall be a fire-retardant roof covering or assembly that is at least Class A.

When 50 percent or less of the total roof area is added, altered or replaced within any one-year period, the roof covering applied in the addition, alteration, repair or replacement of the roof of every existing structure shall be a fire-retardant roof covering that is at least Class B.

Section 15.04.230 Amendment to Section 3109.4.4.2

Section 3109.4.4.2. is amended to read as follows:

Section 3109.4.4.2 Construction permit; safety features required. Commencing January 1, 2007, except as provided in Section 3109.4.4.5, for the protection of the public, residents and their guests, whenever a building permit is issued for construction of a new swimming pool or spa, or any building permit is issued for remodeling of an existing pool or spa, at a private, single-family home, it shall be equipped with a barrier complying with Section 3104.4.4.3 and at least one of the following six drowning prevention safety features:

1. The pool shall be isolated from the access to a home by an enclosure that meets the requirements of Section 3109.4.4.3.
2. The pool shall be equipped with an approved safety pool cover that meets all requirements of the ASTM Specifications F 1346.
3. The residence shall be equipped with exit alarms on those doors providing direct access to the pool.
4. All doors providing direct access from the home to the swimming pool shall be equipped with a self-closing, self-latching device with a release mechanism placed no lower than 54 inches (1372 mm) above the floor.
5. Sonar swimming pool alarms that, when placed in pools, will sound upon detection of accidental or unauthorized entrance into the water. These pool alarms shall meet and be independently certified to the ASTM Standard F 2208 "Standards Specification for Pool Alarms." For purposes of this article, "swimming pool alarms" shall not include swimming protection alarm devices designed for

individual use, such as an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water.

6. Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the devices set forth in items 1-3, and have been independently verified by an approved testing laboratory as meeting standards for those devices established by the ASTM or the American Society of Testing Mechanical Engineers (ASME), inclusive, as determined by the building official. Any ordinance governing child access to pools adopted by a political subdivision on or before January 1, 2007, is presumed to afford protection that is equal to or greater than that afforded by any of the devices set forth in items 1-3, inclusive.

Section 15.04.250 Addition of Section 3401.3.1

Section 3401.3.1. is added to read as follows:

Section 3401.3.1 Alternative Compliance. Alterations, repairs, additions and changes of occupancy to existing structures may be designed to comply with the 2009 International Existing Building Code.

SECTION 4: Chapter 15.05 of the Newport Beach Municipal Code is amended by adopting the 2010 California Residential Code as follows:

**Chapter 15.05
RESIDENTIAL CODE**

Sections:

- 15.05.080 Deletion of Section R313
- 15.05.100 Deletion of Section R327
- 15.05.120 Addition to Section R330
- 15.05.130 Amendment to Section R401.1
- 15.05.150 Amendment to Section R401.4
- 15.05.160 Amendment to Section R401.4.1
- 15.05.170 Deletion of Exception to Section R403.1.3
- 15.05.180 Amendment to Section R405.1
- 15.05.190 Deletion of Exception to Section R602.3.2
- 15.05.200 Deletion of Section R902

Section 15.05.080 Deletion of Section R313 Automatic Fire Sprinkler System

Section R313 is deleted in its entirety and replaced by California Building Code Section 903.2.8 as amended in NBMC Section 15.04.140.

Section 15.05.100 Deletion of Section R327 Materials and Construction Method for exterior wildfire exposure.

Section R327 is deleted in its entirety and replaced by California Building Code Chapter 7A as amended in NBMC 15.04.070 through 15.04.120.

Section 15.05.120 Addition of Section R330

Section R330 is added to read as follows:

SECTION R330 – SWIMMING POOLS, SPAS, AND HOT TUBS

R330.1 General. Private swimming pools, hot tubs and spas, containing water more than 18 inches in depth shall be constructed in accordance with the provisions contained in the City of Newport Beach Municipal Code, Chapter 15.09 SWIMMING POOL CODE and Section 3109.4.4 of the California Building Code.

Section 15.05.130 Amendment to Section R401.1

Section R401.1 is amended to read as follows:

R401.1 Application. The provisions of this chapter shall control the design and construction of the foundation and foundation spaces for all buildings. In addition to the provisions of this chapter, the design and construction of foundations in areas prone to flooding as established by Table R301.2(1) shall meet the provisions of NBMC Chapter 15.50. Wood foundations shall be designed and installed in accordance with AF&PA PWF.

Exception: The provisions of this chapter shall be permitted to be used for wood foundations only in the following situations:

1. In buildings that have no more than two floors and a roof.
2. When interior basement and foundation walls are constructed at intervals not exceeding 50 feet (15 240 mm).

Wood foundations in Seismic Design Category D₂ or E shall not be permitted.

Section 15.05.150 Amendment to Section R401.4 with the replacement of the City of Newport Beach Municipal Code, Chapter 15.10 EXCAVATION AND GRADING CODE .

Section R401.4 is amended to read as follows:

R401.4 Soils test. The building official shall determine whether to require a soil test to determine the soil's characteristics at a particular location. This test shall comply with the City of Newport Beach Municipal Code, Chapter 15.10 EXCAVATION AND GRADING CODE.

Section 15.05.160 Amendment to Section R401.4.1

Section R401.4.1 is amended to read as follows:

R401.4.1 Geotechnical evaluation. When a complete geotechnical evaluation is not required, as determined by the Building Official, the load-bearing values in Table R401.4.1 shall be assumed.

Section 15.05.170 Deletion of Exception to Section R403.1.3.

Section R403.1.3 Exception is deleted in its entirety.

Section 15.05.180 Amendment to Section R405.1.

Section R405.1 is amended by adding exception #2 to read as follows

Exception:

1. A drainage system is not required when the foundation is installed on well-drained ground or sand-gravel mixture soils according to the Unified Soil Classification System, Group I Soils, as detailed in Table R405.1.
2. A foundation drainage system is not permitted for basement walls extending below high tide bay water elevation.

Section 15.05.190 Deletion of Exception to Section R602.3.2

Section R602.3.2 Exception is deleted in its entirety.

Section 15.05.200 Deletion of Section R902 Roof classification.

Section R902 is deleted in its entirety and replaced by California Building Code Section 1505 as amended in Newport Beach Municipal Code Sections 15.04.190 through 15.04.220.

SECTION 5: Chapter 15.09 of the Newport Beach Municipal Code is replaced in its entirety to read as follows:

Chapter 15.09
SWIMMING POOL CODE

Sections:

- 15.09.010 Adoption of the Uniform Swimming Pool Code
- 15.09.020 Amendment to Section 101.5.5
- 15.09.030 Deletion of Section 101.5.6
- 15.09.040 Deletion of Sections 102.0 through 103.8
- 15.09.050 Addition of Section 301.5
- 15.09.060 Addition of Section 301.6
- 15.09.070 Amendment to Section 309.4
- 15.09.080 Amendment to Section 313.3

15.09.010 Adoption of the Uniform Swimming Pool, Spa and Hot Tub Code

The City Council adopts and incorporates by reference, as though set forth in full in this Chapter, the 2009 edition of the Uniform Swimming Pool, Spa and Hot Tub Code and all national codes and standards referenced therein, as published by the International Association of Plumbing and Mechanical Officials.

The various parts of this code, along with the additions, amendments, and deletions adopted in this Chapter, shall constitute and be known as the Newport Beach Swimming Code. A copy of the 2009 Uniform Swimming Pool, Spa and Hot Tub Code, printed in code book form, shall be kept on file in the office of the City Clerk.

Section 15.09.020 Amendment to Section 101.5.5

Section 101.5.5 is amended by the addition of a second paragraph to read as follows:

Section 101.5.5 Maintenance.

All swimming pool and spa water shall be maintained in a clear condition, which is free of algae, insects, debris, and in a sanitary condition. The floor of the pool shall be clearly visible.

Section 15.09.030 Deletion of Section 101.5.6

Section 101.5.6 is deleted in its entirety.

Section 15.09.040 Deletion of Sections 102.0 through 103.8 with the Replacement of the City of Newport Beach Municipal Code, Chapter 15.02 ADMINISTRATIVE CODE

Sections 102.0 through 103.8 are deleted in their entirety and replaced to read as follows:

Section 102.0 Administration. The administration of this code shall be in accordance with the provisions contained in the City of Newport Beach Municipal Code, Chapter 15.02 ADMINISTRATIVE CODE.

Section 102.0.1 Exempt work from permit. A permit shall not be required for the following:

Section 102.0.1.1 The stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should and trap, drainpipe, soil, waste, or vent pipe become defective and it becomes necessary to remove and replace the same with new material, the same shall be procured and inspection made as provided in this code.

Section 102.0.1.2 (1) The clearing of stoppages, or (2) the repairing of leaks in pipes, valves or fixtures, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes, or fixtures.

Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in violation of the provisions of the code or any other laws or ordinances of this jurisdiction.

Section 15.09.050 Addition of Section 301.5

Section 301.5 is added to read as follows:

Section 301.5 Excavation, Grading and Drainage. Excavation, Grading and Drainage shall be in accordance with the provisions contained in the City of Newport Beach Municipal Code, Chapter 15.10 EXCAVATION AND GRADING CODE.

Section 15.09.060 Addition of Section 301.6

Section 301.6 is added to read as follows:

Section 301.6 Enclosures. Enclosures shall be in accordance with the provisions contained in the California Building Code, Section 3109 SWIMMING POOL ENCLOSURES AND SAFETY DEVICES as adopted in the Newport Beach Municipal Code and amended by Chapter 15.04 BUILDING CODE. Enclosures shall not be enforced on a retroactive basis. Existing, permitted barriers required at the time of pool construction shall be maintained; unless the existing enclosure is proposed to be altered, replaced or new with new or reconstructed materials. Existing one- and two-family dwellings or townhouses with additions or alterations to exterior walls used as part of a pool enclosure shall be required to comply with Section 3109.

Section 15.09.070 Amendment to Section 309.4

Section 309.4 is amended to read as follows:

Section 309.4 Pool, Spa and Hot Tub Outlet. Pool, spa or hot tub outlets shall be listed to standards for antibody and hair entrapment in accordance with APSP 7 or ASME A112.19.8. Entrapment avoidance shall be in accordance with the provisions contained in the California Building Code, Section 3109.4.4.8 and 3109.5.

Section 15.09.080 Amendment to Section 313.3

Section 313.3 is amended by the addition of a third paragraph to read as follows:

Section 313.3

Waste water from any filter, scum filter, scum gutter, overflow, pool emptying line, or similar apparatus shall discharge into an approved type receptor and subsequently into a public sewer. The flood level rim of such receptor shall be at least 6 inches above the Base Flood Elevation (BFE) indicated in the Flood Insurance Rate Map as printed by

the Federal Emergency Management Agency's, Flood Insurance Rate Map (FIRM) revision date December 3, 2009.

SECTION 6. Chapter 15.11 of the Newport Beach Municipal Code is hereby amended to read as follows:

Chapter 15.11
GREEN BUILDING STANDARDS CODE

Sections:

- 15.11.010 Adoption of Voluntary Measures
- 15.11.020 Amendment to Section A4.506.1

Section 15.11.010 Adoption of Voluntary Measures. The City Council adopts and incorporates the following sections from Appendix A4 and A5 as mandatory requirements: A4.210.1; A4.303.1 Tier 1 and Tier 2; A4.506.1; A5.106.2; A5.106.2.1; A5.106.2.2; A5.204.1; A5.212.1; A5.303.3(1) and (2)

Section 15.11.020 Amendment to Section A4.506.1

Section A4.506.1 is amended to read as follows:

Section A4.506.1 Filters. Filters with a higher value than MERV 7 are installed on central air or ventilation systems. Pressure drop across the filter shall not exceed 1 inch water column.

SECTION 7. Chapter 15.12 of the Newport Beach Municipal Code is hereby added to read:

Chapter 15.12
POST-DISASTER SAFETY ASSESSMENT PLACARDS
AND STANDARD FOR REPAIR OF DAMAGED STRUCTURES

Sections:

15.12.010	Adoption of Post-Disaster Safety Assessment Placards and Standard for Repair of Damaged Structures
15.12.020	Purpose and Intent
15.12.030	Application of Provisions
15.12.040	Definitions
15.12.050	Placards
15.12.060	Structural Repairs

Section 15.12.010 Adoption of Post-Disaster Safety Assessment Placards and Standard for Repair of Damaged Structures. The City Council adopts and incorporates by reference, as though set forth in full in this section, the Disaster Safety Assessment Placards and Standard for Repair of Damaged Structures.

Section 15.12.020 Purpose and Intent. This chapter establishes standard placards to be used to indicate the condition of a structure for continued occupancy after any natural or manmade disaster. This chapter further authorizes the Building Department representative to post the appropriate placard at each entry point to a building or structure upon completion of a safety assessment. This chapter also provides a defined level of repair for buildings damaged by a natural or manmade disaster where a formal state of emergency has been proclaimed by the City Council.

Section 15.12.030 Application of Provisions. The provisions of this chapter are applicable, following each natural or manmade disaster, to all buildings and structures of all occupancies regulated by the City of Newport Beach.

Section 15.12.040 Definitions.

Damage Ratio is the estimated value of repairs required to restore the structural members to the estimated replacement value of the building or structure.

Safety assessment is a visual, non-destructive examination of a building or structure for the purpose of determining the condition for continued occupancy following a natural or manmade disaster.

Section 15.12.050 Placards.

1. The following are descriptions of the official placards to be used to designate the condition for continued occupancy of buildings or structures.
 - a. **INSPECTED – Lawful Occupancy Permitted** (Green in color) is to be posted on any building or structure wherein no apparent structural hazard has been found. This placard is not intended to mean that there is no damage to the building or structure.
 - b. **RESTRICTED USE** – (Yellow in color) is to be posted on each building or structure that has been damaged wherein the damage has resulted in some form of restriction to the continued occupancy. The individual who posts this placard will note in general terms the type of damage encountered and will clearly and concisely note the restrictions on continued occupancy.
 - c. **UNSAFE – Do Not Enter or Occupy** (Red in color) is to be posted on each building or structure that has been damaged such that continued occupancy poses a threat to life safety. Buildings or structures posted with this placard shall not be entered except as authorized in writing by the Building Department. Safety assessment teams shall be authorized to enter these buildings. This placard is not to be used or considered as a

demolition order. The individual who posts this placard will note in general terms the type of damage encountered.

2. This ordinance number, the name of the department, its address, and phone number shall be listed on each placard.
3. Once it has been attached to a building or structure, a placard is not to be removed, altered or covered until done so by an authorized representative of the building department or upon written notification from the department.

Section 15.12.060 Structural Repairs. Structural repairs shall comply with Chapter 34 of the California Building Code or added Section 3401.3.1.

SECTION 8. Chapter 15.50 of the Newport Beach Municipal Code is amended and renamed to read as follows:

Chapter 15.50
FLOODPLAIN MANAGEMENT

Sections:

- 15.50.050 Definitions. **Amended.**
- 15.50.070 Basis for Establishing the Areas of Special Flood Hazard. **Amended.**
- 15.50.130 Designation of the Floodplain Administrator. **Amended.**
- 15.50.135 Permit Review. **Added.**
- 15.50.140 Review, Use of Other Base Flood Data. **Amended.**
- 15.50.145 Development of Substantial Improvement and Substantial Damage Procedures. **Added.**
- 15.50.160 Alteration of Watercourses. **Deleted and replaced**
- 15.50.160 Notification of Other Agencies. **Replaced.**
- 15.50.190 Conditions for Variances. **Amended.**
- 15.50.200 Standards of Construction. **Amended.**
- 15.50.230 Coastal High Hazard Areas. **Amended.**

Section 15.50.050 Amendment to Section 15.50.050

Section 15.50.050 is amended to read as follows:

Section 15.50.050 Definitions. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

"Addition" means any additional building square footage added to the lot.

"Addition cost" means the "addition" square footage multiplied by the cost per foot average as determined by the Building Official.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

"Area of shallow flooding" means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from 1 to 3 feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood-related erosion hazard" is the land within a community, which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the flood insurance rate map (FIRM).

"Area of special flood hazard." See "Special flood hazard area."

"Area of special mudslide (i.e., mudflow) hazard" is the area subject to severe mudslides (i.e., mudflows). The area is designated as Zone M on the flood insurance rate map (FIRM).

"Base flood" means a flood, which has a 1% chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used through this chapter.

"Basement" means any area of the building having its floor subgrade, i.e., below ground level on all sides.

"Breakaway walls" are any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design

loading resistance of not less than 10 and no more than 20 pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:

1. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
2. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.

"Building." See "Structure."

"Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a flood insurance rate map (FIRM) as Zone VE, or V.

"Current value of the structure" means the existing structure square footage multiplied by the cost per foot average as determined by the Building Official.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

"Flood, flooding, or flood water" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides; and
2. The condition resulting from flood-related erosion.

"Flood boundary and floodway map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance and Mitigation Administration has delineated both the areas of special flood hazards and the floodway.

"Flood hazard boundary map" means the official map on which the Federal Emergency Management Agency or Federal Insurance and Mitigation Administration has delineated the areas of flood hazards.

"Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance and Mitigation Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

"Flood insurance study" means the official report provided by the Federal Insurance and Mitigation Administration that includes flood profiles, the flood insurance rate map, the flood boundary and floodway map, and the water surface elevation of the base flood.

"Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flooding."

"Floodplain Administrator" is the individual appointed to administer and enforce the floodplain management regulations.

"Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

"Floodplain management regulations" means this chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

"Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as a "regulatory floodway."

"Fraud and victimization" as related to Section 15.50.190, variances, of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City of Newport Beach will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be

constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be incurred only at very high flood insurance rates.

"Functionally dependent use" means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

"Governing body" is the local governing unit, i.e., county or municipality that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

"Hardship" as related to Section 15.50.190, variances, of this chapter, means the exceptional hardship that would result from a failure to grant the requested variance. The City of Newport Beach requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a slightly different use than originally intended.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

"Lowest floor" means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area (see "Basement") is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter. (Note: This definition allows garages serving one or two dwelling units to be built at grade. Below grade garages serving one or two dwelling units are not allowed as they are considered to be basements.)

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured home" does not include a "Recreational vehicle."

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mudslide" (i.e., mudflow) describes a condition where there is a river, flow or inundation of liquid mud down a hillside, usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground, preceded by a period of unusually heavy or sustained rain.

"Mudslide (i.e., mudflow) prone area" means an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

"New construction" for floodplain management purposes, means structures for which the "Start of construction" commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

"North American Vertical Datum of 1988 (NAVD)" means, for the purpose of National Flood Insurance Program, the vertical datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

"Obstruction" includes, but is not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in,

along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

"One-hundred-year flood" or "100-year flood." See "Base flood."

"Primary frontal dune" means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

"Principal structure" means a structure used for the principal use of the property as distinguished from an accessory use.

"Public safety and nuisance" as related to Section 15.50.190, variances, of this chapter means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

"Recreational vehicle" means a vehicle, which is:

1. Built on a single chassis;
2. Four hundred (400) square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

"Remodel" means any reconstruction, rehabilitation or renovation of an existing structure whereby no additional floor area is added to an existing structure.

"Remodel cost" means the cost of the remodel as determined by the Building Official.

"Sand dunes" means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

"Sheet flow area." See "Area of shallow flooding."

"Special flood hazard area (SHFA)" means an area having special flood, mudslide (i.e., mudflow) or flood-related erosion hazards, and shown on an FHBM or FIRM as Zone A, AO, AE, A99, AH, VE or V.

"Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty days of the permit. The actual start means either the first placement or permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a "Substantial improvement", the actual start of construction means

the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

"Substantial damage" means any damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition (see "Remodel cost") would equal or exceed 50% of the "Current value of the structure" before the damage occurred.

"Substantial improvement" means any new construction, "Remodel" or "Addition", where the "Remodel cost" plus the "Addition cost" is at least 50% of the "Current value of the structure." This term includes structures, which have incurred "Substantial damage," regardless of the actual repair work performed. However, the term does not include:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "Historic structure," provided that the alteration will not preclude the structure's continued designation as a "Historic structure."

"V zone." See "Coastal high hazard area."

"Variance" means a grant of relief from the requirements of this chapter, which permits construction in a manner that would otherwise be prohibited by this chapter.

"Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

"Water surface elevation" means the height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

"Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Section 15.50.070 Amendment to Section 15.50.070

Section 15.15.070 is amended to read as follows:

Section 15.50.070 Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration of the Federal Emergency Management Agency in the "Flood Insurance Study Orange County and Incorporate Areas," dated December 3, 2009, with an accompanying flood insurance rate map and flood boundary and floodway maps dated December 3, 2009, and all subsequent revisions, are adopted by reference and declared to be a part of this chapter. This flood insurance study is on file at 3300 Newport Boulevard, Newport Beach, California (92659-1768). This flood insurance study is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator.

Section 15.50.130 Amendment to Section 15.50.130

Section 15.50.130 is amended to read as follows:

Section 15.50.130 Designation of the Floodplain Administrator. The City Manager or his designated representative is hereby appointed to administer, implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The floodplain administrator shall also 1) Take action to remedy violations of this ordinance; 2) Complete and submit a biennial report to FEMA; and 3) Assure the community's General Plan is consistent with floodplain management objectives.

Section 15.50.135 Addition of Section 15.50.135

Section 15.50.135 is added to read as follows:

Section 15.50.135 Permit Review. The Floodplain Administrator or his designated representative shall review all development permits to determine:

1. Permit requirements of this ordinance have been satisfied, including determination of substantial improvement and substantial damage of existing structures;
2. All other required state and federal permits have been obtained;
3. The site is reasonably safe from flooding.
4. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. This means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than 1 foot at any point; and,
5. All Letters of Map Revision (LOMRs) for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land preparation as specified in the “start of construction” definition.

Section 15.50.140 Amendment to Section 15.50.140

Section 15.50.140 is amended to read as follows:

Section 15.50.140 Review, Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.50.070, basis for establishing the areas of special flood hazard, the Floodplain Administrator or his designated representative shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state or other source, in order to administer Sections 15.50.200 through 15.50.250.

Section 15.50.145 Addition of Section 15.50.145

Section 15.50.145 is added to read as follows:

Section 15.50.145 Development of Substantial Improvement and Substantial Damage Procedures. The Floodplain Administrator or his designated representative shall:

1. Answer to questions about substantially damaged buildings, develop detailed procedures for identifying and administering requirements for substantial improvement and substantial damage to include defining "Current Value of the Structure."
2. Assure procedures are coordinated with other departments/divisions and implemented by community staff.

Section 15.50.160 is deleted in its entirety and replaced as follows:

Section 15.50.160 Notification of Other Agencies:

1. Alteration or relocation of a watercourse. The Floodplain Administrator or his designated representative shall:
 - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation;
 - b. Submit evidence of such notification to the Federal Emergency Management Agency; and watercourse is maintained;
 - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
2. Base Flood Elevation changes due to physical alterations. The Floodplain Administrator or his designated representative shall:
 - a. Within six months of information becoming available or project completion, whichever comes first, submit or assure that the permit applicant submits technical or scientific data to FEMA for a Letter of Map Revision (LOMR).
 - b. Verify all LOMRs for flood control projects are approved prior to the issuance of building permits. Building permits must not be issued based on Conditional Letters of Map Revision (CLOMRs). Approved CLOMRs allow construction of the proposed flood control project and land

preparation as specified in the “start of construction” definition. Such submissions are necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements are based on current data.

3. Changes in corporate boundaries: The Floodplain Administrator or his designated representative shall notify FEMA in writing whenever the corporate boundaries have been modified by annexation or other means and include a copy of a map of the community clearly delineating the new corporate limits.

Section 15.50.190 Amendment to Section 15.50.190

Section 15.50.190 is amended to read as follows:

Section 15.50.190 Conditions for Variances.

1. Variances may be issued for the repair or rehabilitation of structures listed in National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
2. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4. Variances shall only be issued upon:
 - i. A showing of good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on, or victimization of, the public, or conflict with existing local laws or ordinances.

5. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced flood lowest flood elevation. A copy of the notice shall be recorded by the Floodplain Board in the office of the Orange County Recorder and shall be recorded in a manner so that it appears in chain of title of the affected parcel of land.

Section 15.50.200 Amendment to Section 15.50.200

Section 15.50.200 is amended to read as follows:

Section 15.50.200 Standards of Construction. In all areas of special flood hazards, all “substantial improvements,” including all existing construction, shall meet the following standards:

- A. Anchoring. Adequate anchoring to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. Construction Materials and Methods.
 1. With materials and utility equipment resistant to flood damage;
 2. Using methods and practices that minimize flood damage;
 3. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 4. Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

C. Elevation and Floodproofing.

1. Residential construction shall have the lowest floor, including basement;
 - a. In an AO zone, elevated above the highest adjacent grade to a height equal to or exceeding the depth number specified in feet on the FIRM, or elevated at least two feet above the highest grade if no depth number is specified;
 - b. In an A zone, elevated to or above the base flood elevation, as determined by the City of Newport Beach;
 - c. In all other zones, elevated to or above the base flood elevation per Section 15.50.070.
 - d. Fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:
 - i. Be certified by a registered professional engineer or architect to comply with a local floodproofing standard approved by the Federal Insurance and Mitigation Administration, or Federal Emergency Management Agency; or
 - ii. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.
 - e. Upon completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor, and verified by the community building

inspector to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator.

2. Nonresidential Construction. Nonresidential construction shall either be elevated to conform with subsection (C)(1)(a, b, c) or together with attendant utility and sanitary facilities:
 - a. Be floodproofed below the elevation recommended under subsection (C)(1)(a, b, c) so that the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certification shall be submitted to the Floodplain Administrator.
 3. Manufactured Homes. Manufactured homes that are placed or substantially improved shall be elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 4. Recreational Vehicles. All recreational vehicles shall:
 - a. Be on the site for fewer than one hundred eighty (180) consecutive days;
 - b. Be fully licensed and ready for highway use; a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the permit requirements of Section 15.50.200(C) of this chapter.
- D. Required Submittals. Before construction begins within any area of special flood hazards established in Section 15.50.070, application for a building permit shall be made pursuant to the Administrative Code, adopted in Newport Beach Municipal Code Section 15.02.010. In addition to submittals required by the Uniform Administrative Code, drawings shall show the nature, location,

dimensions, and elevations of each structure; existing and proposed grades, and drainage facilities. Specifically, the following information is required:

1. Proposed elevation, as determined by a licensed land surveyor or registered civil engineer, of the lowest floor (including basement) of all structures;
 2. Proposed elevation in relation to (NAVD) to which any structure will be floodproofed;
 3. All appropriate certifications listed in Section 15.50.150 of this chapter;
 4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;
 5. Plans for any walls to be used to enclose space below the base flood levels.
- E. Floodways. Encroachments into floodways are prohibited, including fill, new construction, substantial improvements, and other development, unless certification by a registered civil engineer is provided demonstrating that the proposed encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

Section 15.50.230 Amendment to Section 15.50.230

Section 15.50.230 is amended to read as follows:

Section 15.50.230 Coastal High Hazard Areas. Within coastal high hazard areas as established under Section 15.50.070 the following standards shall apply.

- A. All “Substantial improvements,” including all existing construction, and manufactured homes shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings and columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be

those associated with the base flood. Wind loading values used shall be those required by the California Building Code;

- B. All new construction and other development shall be located on the landward side of the reach of mean high tide;
- C. "Substantial improvements," including all existing construction shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 15.50.050 of this chapter. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access and storage;
- D. Fill shall not be used for structural support of buildings;
- E. Manmade alteration of sand dunes which would increase potential flood damage is prohibited;
- F. The Floodplain Administrator shall obtain and maintain the following records:
 - 1. Certification by a registered engineer or land surveyor that a proposed structure complies with Section 15.50.230(A);
 - 2. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement.

SECTION 10. Severability Clause. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 11. Publication. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption.

This Ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 11h day of January, 2011, and adopted on the 25th day of January, 2011, by the following vote, to-wit:

AYES, COUNCILMEMBERS_____

NOES, COUNCILMEMBERS_____

ABSENT, COUNCILMEMBERS_____

MAYOR_____

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

David R. Hunt, City Attorney
For the City of Newport Beach

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